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Attorney for Defendants

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Civil No. 06 CV 1706 BEN (NLS)
)	
v.)	
)	
Undetermined quantities of boxes)	
of Signature Edition Gold infusion)	
pumps, et al.,)	UNOPPOSED MOTION TO
)	AMEND DECREE FOR
)	CONDEMNATION AND
Defendants.)	PERMANENT INJUNCTION
)	

COME NOW DEFENDANTS CareFusion 303, Inc. and Keith McLain, by and through their counsel, Peter S. Spivack, who hereby move the Court to amend the Amended Consent Decree of Condemnation and Permanent Injunction ("Amended Decree") previously entered by this Court on December 22, 2016, by deleting the named individual Keith McLain throughout the Amended Decree and substituting therefore Jeffry Fecho, Vice President, Quality Management, MMS, at Becton, Dickinson and Company. Defendants CareFusion 303, Inc. and Michael Garrison will remain a party to the Amended Decree. Plaintiff United States of America, by and through its counsel, Allan Gordus, Trial Attorney, United States Department of Justice, does not oppose this motion.

In support of this motion, defendants state as follows:

1 1. On February 23, 2009, this Court entered an Amended Decree involving
2 corporate defendant, Cardinal Health 303, Inc., and three individual defendants, David L.
3 Schlotterbeck, Dwight Winstead, and Donald M. Abbey.

4 2. As a result of a legal entity name change, on October 14, 2009, pursuant to a joint
5 motion by the parties, the Court amended the Amended Decree to substitute CareFusion 303, Inc.
6 throughout for Cardinal Health 303, Inc.

7 3. On June 11, 2012, this Court entered an Amended Decree substituting two new
8 individual defendants, Thomas Leonard and Jean-Claude Kyrillos, for two officers of
9 CareFusion 303, Inc., David L. Schlotterbeck and Dwight Winstead, who had retired from the
10 company.

11 4. On July 26, 2016, this Court entered an Amended Decree substituting Michael
12 Garrison for defendant Jean-Claude Kyrillos because defendant Kyrillos had resigned from
13 CareFusion 303, Inc. Defendant Garrison is currently employed by Becton, Dickinson and
14 Company as World-Wide President, BD Medical – Medication Management Solutions.

15 5. On December 22, 2016, this Court entered an Amended Decree substituting
16 defendant Keith McLain for two individual defendants, Donald M. Abbey and Thomas Leonard,
17 because those individuals had resigned from CareFusion 303, Inc.

18 6. The present motion is necessary because Keith McLain has resigned from
19 CareFusion 303, Inc. CareFusion 303, Inc. represents that (1) neither CareFusion 303, Inc., nor
20 any of its affiliates or subsidiaries, has any present intention of employing, or being affiliated
21 with in any other capacity (e.g., as a consultant), Keith McLain, and (2) if Keith McLain were to
22 become employed by or affiliated with CareFusion 303, Inc., or any of its affiliates or
23 subsidiaries, in a management capacity or as a consultant, then CareFusion 303, Inc. would
24 require that he consent to become subject to the Amended Decree if at that time it is otherwise
25 still in effect.

26 7. October 25, 2020, Jeffry Fecho was hired as Vice President, Quality Management,

1 MMS, at Becton, Dickinson and Company. Jeffry Fecho is an officer of CareFusion 303, Inc.,
2 and he has agreed to assume all obligations and responsibilities of Keith McLain under the
3 Amended Decree.

4 8. Counsel for Plaintiff, Allan Gordus, has stated that he does not oppose this
5 Motion.

6 Based on the foregoing, Defendants respectfully request that the Court enter an order
7 amending the Amended Consent Decree for Condemnation and Permanent Injunction.

8 DATED: February 8, 2021

/s/ Peter Spivack
PETER SPIVACK
Counsel for Defendants
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1 I hereby consent to the entry of the proposed Amended Consent Decree as described in
2 the foregoing Motion.

3 DATED: Feb. 05, 2021



4 Jeffrey Fecho
5 Vice President,
6 Quality Management, MMS
7 Becton Dickinson
8 Individually and on behalf of CareFusion
9 303, Inc.